

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE 2004 JAN -7 PM 2:49

January 7, 2004

T.R.A. DOCKET ROOM

IN RE: Petition for Arbitration of XO ) Docket No.: 03-00630 and 0300631  
Tennessee, Inc. with BellSouth )  
Telecommunications, Inc. Pursuant to the )  
Telecommunications Act of 1996 )  
And )  
Petition for Arbitration of the Interconnection )  
Agreement between BellSouth and XO )  
Tennessee, Inc. )

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**MOTION FOR CONSOLIDATION**

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XO Tennessee, Inc. ("XO") asks that the Tennessee Regulatory Authority consolidate the two, above-captioned arbitration petitions, one filed by XO and the other by BellSouth Telecommunications, Inc. ("BellSouth"). XO further reiterates its request that the Authority provide mediation assistance to the Parties. XO asks that a mediator and/or Hearing Officer be appointed and a pre-hearing conference convened as quickly as possible.

As stated in XO's Petition (footnote 2), XO has reserved the right to present an accurate account of the parties' conduct in negotiation, should the issue of whether either party failed to negotiate in good faith is considered by the Authority. XO strongly disputes the statement of facts set forth in the arbitration petition filed by BellSouth Telecommunications, Inc. ("BellSouth"), and XO questions BellSouth's motives in making such claims. The language and the tone of the petition filed by BellSouth are merely further evidence of the unwillingness on the part of BellSouth to engage in meaningful discussions. Further, its suggestion that it be allowed to terminate service to XO and its customers not only violates the Parties' current

interconnection agreement, but is further evidence of the lack of good faith shown by BellSouth in the course of these negotiations.

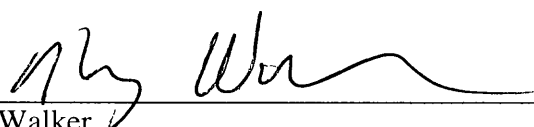
In contrast to BellSouth, XO filed a Petition which simply sets forth the undisputable fact that the parties have made no progress in the course of negotiation and asks that the Authority assist the parties, through mediation, in identifying issues and negotiating a new agreement, starting with resolution of the current impasse, after which the parties may, indeed, be able to proceed with further negotiations. While BellSouth chose to perpetuate the "bickering" between the parties, XO has chosen not to respond in kind primarily because these arguments about which party is to blame for the current impasse do nothing to help the Authority address the substantive issues in this docket.

XO's primary concern in this Arbitration is to obtain an interconnection agreement with BellSouth that comports with applicable law, including the Authority's prior decisions and the recent FCC Triennial Review Order. That has been XO's goal throughout the course of these negotiations. Because of the statutory time limits and the large number of issues remaining to be addressed, XO asks that the Authority consolidate the two petitions into one docket, appoint a mediator and/or Hearing Officer, and convene a pre-hearing conference to consider how best to proceed in this matter.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: \_\_\_\_\_

  
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**CERTIFICATE OF SERVICE**

I hereby certify that on January 7, 2004; a copy of the foregoing document was serviced on the parties of record, via US mail:

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